

Application No. 09/822,064

### REMARKS

Claims 1-16 and 18-22 stand rejected under 35 U.S.C. §102(e) as being unpatentable over McDonald et al., U.S. Patent No. 5,638,055. This objection is traversed and reconsideration is requested in view of the following remarks.

Applicant's attorney has carefully reviewed the examiner's comments with regard to the McDonald patent and believes that there may be some misunderstanding as to the scope of the claims in the present invention as they apply to the invention as described. The following comments are therefore provided to again explain the basis of applicant's invention.

In a typical trunk radio system that is used by emergency and public service organizations, the capacity of that system to handle calls is generally over specified, i.e., the number of channels designed in the system is significantly greater than the expected number of simultaneous users. This assures that no calls for service are blocked because a channel is not available. This description is set forth in the background of the present invention and is not new matter. Because the system is over specified, there is available bandwidth or channels within the system that are not in use at all times. The present invention is intended to utilize these unused channels to carry communications from sources outside the emergency and public service organizations. These outside users are generally low priority digital data services which are described in applicant's specification as parasitic users, i.e., users who can utilize available channels in the system when those channels are not otherwise being required by the system users. It is specifically noted that because these are outside users, any user of the actual system, that is the emergency or public service users, have priority over the parasitic users. Thus, this system as described and claimed by applicant is not directed to functions within the normal user configuration of trunk radio systems. In applicant's invention, any normal member of the emergency or public safety group has priority and can interrupt any transmission that is being utilized to transmit what applicant has described as parasitic data from outside resources.

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The McDonald et al. patent is directed to the trunked radio system in which there is provided a method to enable users of the communication system to control which communication unit sources audio at any one time in a user group. See column 2, lines 43-46. McDonald et al. discloses three modes of operation that can be utilized in the trunk radio system. The first mode of operation prohibits interruption of a user that is already talking on a channel. In a second mode of operation, the system allows any user to interrupt a person talking on the system to interject comments or other information. The second mode of operation is described as being similar to a normal conversational mode in which individuals routinely interrupt each other to take control of a conversation. In a third mode of operation, McDonald et al. describes a hierarchy system which allows the system administrator to establish priority based upon hierarchy within the user groups. In this system, a supervisor might have ultimate priority so that the supervisor could interrupt any other person that is talking on the system.

As the examiner will appreciate, McDonald et al. is merely describing different modes of operation for users on a trunked radio system. The mode of operation which allows a priority to be set is again only used for the designated users who communicate by audio on the system. The particular invention that is being disclosed in McDonald et al. assumes that there is a user group that utilizes a common channel for communication so that if one user has control of the channel, no one else can talk. The system that is described by applicant relates to the overall system which has a plurality of channels so that some of the channels are assumed not to be in use at all times. Clearly this is different from directing priority modes for a single channel as is done in McDonald et al.

Turning now to the examiner's comments with regard to claim 1, it is initially noted that the examiner's characterization of parasitic data as emergency transmission is incorrect. The term "parasitic data" is used by applicant throughout the specification to mean data that is allowed to use the system only when there are available free channels. Note also that the parasitic data is being directed to a second plurality of receivers which are different from the first

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plurality of receivers that are associated with the actual public service system. It is correct that the system includes a transmitter for transmitting an information signal to the first plurality of receivers on an assigned frequency selected from a plurality of available frequencies. This is a classical description of the transmission of audio on a trunked radio system. However, McDonald et al. does not describe multiple channel priorities and does not include a transmitter for transmitting parasitic data to a second plurality of receivers using an unoccupied frequency. Note that what McDonald et al. describes is the ability to interrupt a frequency that is being used in order to take control of that frequency by someone having a higher priority than the present user of that system. While that may sound similar in some respects to applicant's claimed invention, there is nothing in McDonald et al. that suggests that an outside source could transmit parasitic data to a second plurality of receivers on one of the unoccupied frequencies that exist in the trunked radio system. Of course the ability to utilize the unavailable frequencies requires that the system be capable of interrupting any of that parasitic data transmission anytime that a user of the system desires to transmit audio over the system and other channels are not available. Accordingly, it is not seen that there is any description in McDonald et al. that meets the limitations set forth in applicant's claim 1.

With regard to the examiner's characterization of claim 5, it is again repeated that McDonald et al. does not describe any use of a trunked radio system for transmitting parasitic data from a source outside the system to other receivers by simply using the available frequency channels on the trunked radio system. Accordingly, it is not believed that the examiner's characterization of McDonald et al. with regard to claim 5 is accurate. All of claims 1-16 and 18 include the reference to parasitic data. Accordingly, it is submitted that McDonald et al. does not anticipate any of these claims and reconsideration is requested.

Claim 19 is an independent method claim and describes operation of a system in which there are two separate sets of radios that can use the system. The sets of radios are each associated with plural working channels wherein the

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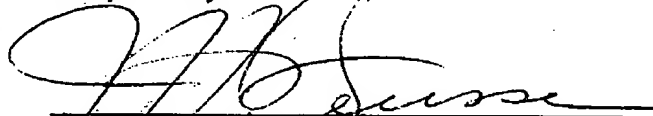
working channels are assigned for use by one or more of a first plurality of radios. The first plurality of radios is given priority over all of the channels and can use any of the channels at any time. However, the controller determines if there are unused channels in the system and when there are unused channels, permits the second plurality of radios to use the unoccupied working channels. However, whenever any one of the first plurality of radios requires access to a working channel, the controller interrupts use of that channel by any one of the second plurality of radios.

In comparing this invention to what is shown in McDonald et al., it is apparent that McDonald et al. is only directed to a single channel user group. There is no discussion in McDonald et al. of how one would treat a plurality of channels nor how one would assign different channels within the working group. Accordingly, it is not seen that it is contemplated nor suggested in McDonald et al. that a plurality of working channels could be used by one set of radios when those channels are not required for use by another set. Accordingly, it is not seen that McDonald et al. meets the Section 102(e) requirements for rejection of claim 19.

Claims 20-22 depend from claim 19 and add further detail that distinguish the invention from McDonald et al.

Reconsideration is requested in view of the above remarks.

Respectfully submitted,



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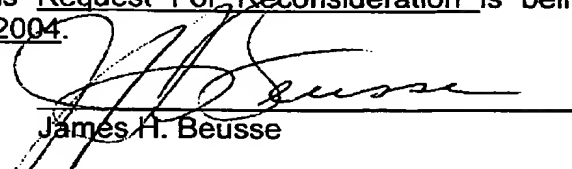
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CERTIFICATE OF TRANSMISSION

I HEREBY CERTIFY that this Request For Reconsideration is being faxed to 703-872-9314 on August 4, 2004.



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